

Notice of Allowability

Application No.

10/712,546

Examiner

Brian S. Kwon

Applicant(s)

PODOLSKI ET AL.

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Telephonic Interview on 9/26/06.
2. ☒ The allowed claim(s) is/are 4, 10 and 15-19.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20060926</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>08/25/06</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input checked="" type="checkbox"/> Other <u>See Continuation Sheet</u> . |

Brian Kwon
Primary Patent Examiner, AU 1614



Continuation of Attachment(s) 9. Other: Drawings filed 11/12/03 are acceptable.

DETAILED ACTION

1. The Drawings filed on November 12, 2003 are acceptable.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David W. Clough, Jr. September 26, 2006.

The application has been amended as follows:

In Claim 4, line 1, delete [wasting in a mammal] and replace with --symptom of wasting in a human infected with human immunodeficiency virus (HIV)--.

In Claim 4, line 2, delete [the mammal an effective amount of] and replace with --the human--.

In Claim 4, line 5, add --, in an effective amount to treat said symptom of wasting in the human infected with HIV-- after excipients.

In Claim 4, line 5, add --weight (w/w)-- before ratio.

In Claim 10, line 2, delete [an effective amount of] and in line 4, add --, in an effective amount to treat said symptom of wasting in the human infected with HIV--after excipients.

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In Claim 15, delete [4, wherein the composition comprises a dosage of 1-200mg of trans-clomiphene per day] and replace with --10, wherein the trans-clomiphene is in a dosage range of 1-200 mg per day--.

In Claim 16, delete [the composition comprises a dosage of 50 mg of trans-clomiphene per day] and replace with --the trans-clomiphene is in a dosage range of 50 mg per day--.

In Claim 17, delete [11, wherein the composition is administered in a dosage of 1.5 mg/kg of trans-clomiphene per day] and replace with --10, wherein the trans-clomiphene is administered in a dosage of 1.5 mg/kg per day--.

In claim 18, line 2, delete [or solvate].

Claims 11-14 are cancelled.

CONCLUSION

3. Claims 4, 10 and 15-19 are allowed.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Kwon whose telephone number is (571) 272-0581. The examiner can normally be reached Tuesday through Friday from 9:00 am to 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, can be reached on (571) 272-0951. The fax number for this Group is (571) 273-8300.

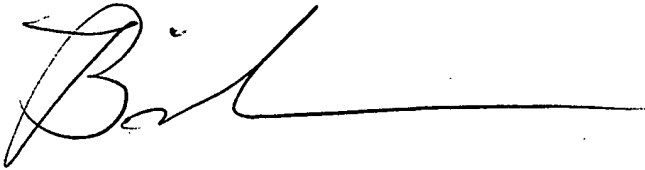
Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

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Brian Kwon
Patent Examiner
AU 1614

A handwritten signature in black ink, appearing to read 'Brian Kwon', with a long horizontal line extending to the right.